

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

## **2. Scheduling**

The parties have met and conferred but do not agree on a schedule for further briefing in this case.

### **a. Plaintiffs' position**

Plaintiffs propose the following schedule:

- Defendants serve a certified administrative record with correct caption on Plaintiffs within 7 days of the date the Court issues its order.
- Defendants' cross-motion and opposition due 14 days from the date the Court issues its order.
- Plaintiffs' opposition and reply due 14 days thereafter.
- Defendants' reply due 7 days thereafter.

This schedule appropriately restores the briefing schedule in effect before the lapse in appropriations, and it affords Defendants the same amount of time to draft their opening summary-judgment brief as Plaintiffs received in drafting their opening briefs (indeed, it affords more time, because the Court's stay was entered three days after Defendants' original 14-day briefing period began). Furthermore, this schedule complies with this Court's order to propose "a briefing schedule taking into account the duration of the lapse in appropriations." The lapse in appropriations has already substantially delayed the progress of this case, and affording Defendants more than 14 days to draft its brief would risk further delays if appropriations once again lapse on February 15. Given that the case was almost fully briefed on the merits at the preliminary-injunction stage, and that the Court has permitted the parties to incorporate by reference their summary judgment papers, Defendants' proposal that the Court extend the briefing

schedule substantially beyond the period contemplated by the Court's prior briefing order is both unnecessary and unwarranted.

b. Defendants' position

Defendants propose the following schedule:

- Defendants serve a certified administrative record with correct caption on Plaintiffs within 14 days of the date the Court issues its order.
- Defendants' cross-motion and opposition due 28 days from the date the Court issues its order.
- Plaintiffs' opposition and reply due 28 days thereafter.
- Defendants' reply due 14 days thereafter.

Defendants believe this schedule is appropriate because the *East Bay* injunction remains in place and there is no realistic possibility that it will be reversed or revised by the Ninth Circuit or the Supreme Court before the completion of briefing under Defendants' schedule. Plaintiffs and their putative class thus cannot claim any exigency that would warrant a more expedited schedule. Defendants also note that, consistent with the January 7, 2019 proceedings before this Court, counsel for Defendants have not worked on their response briefs in this case (and have, even since the lapse in appropriations ended, continued to await further order of this Court before working on those briefs). *See* ECF No. 61.

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Dated: February 1, 2019

Respectfully submitted,

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<sup>1</sup> Pursuant to LCvR 83.2(g).

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*For Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that on February 1, 2019, I electronically filed the foregoing document with the Clerk of the Court for the United States Court of for the District of Columbia by using the CM/ECF system. Counsel in the case are registered CM/ECF users and service will be accomplished by the CM/ECF system.

By: /s/ Erez Reuveni  
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